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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

JACKSON, ANDRE L

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/938,525

Applicant(s)

KOBAYASHI, KYOZO

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 8, 2003 has been entered.

Specification

Claims 19 and 20 are objected to because of the following informalities: In claim 19, applicant recites that the first and second cooperating fasteners comprise "sets of interlocking teeth". After careful review, the Examiner is unable to find a passage in applicant's original specification that mentions or describes "sets of interlocking teeth". Although applicant describes in the disclosure as having first and second cooperating sides with fasteners and a slide fastener to "zip up or zip down" or a Velcro type of closure (pg. 4, lines 24-26), applicant does not disclose "sets of interlocking teeth" as claimed. It is considered that a zipper has only one set of interlocking teeth. Therefore, the aforementioned phrase constituting new subject matter is improper and claims 19 and 20 have been interpreted as if applicant is claiming a zipper.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-14, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,105,219 to Beadle. Beadle (Figs. 1-3 and the Examiner's appended Fig. 3A) discloses a buckle guard comprising, an outside belt-like member (12) having a top end (22) and bottom end (24) disposed away from the top end along a longitudinal axis, a left belt-like member (16) and a right belt-like member (14) adapted to be releasably fasten onto one another by a snap fastening means (78, 84, 68, 78) to form a partially closed volume when folded together forming a flat tubular guard or cover. The flat tubular guard or cover defining a flat tubular lower portion defining a lower slit shaped opening that extends along a transverse axis perpendicular to the longitudinal axis and has a first width **W1** (Fig. 3A); a flat tubular upper portion defining an upper slit shaped opening that extends along the transverse axis and has a second width **W2** that is less than the first width **W1** (Fig. 3A); and a flat tubular notched portion disposed between the flat lower and upper portions, the flat tubular notched portion defining a lower notched slit-shaped opening that is disposed adjacent the flat tubular lower portion and has a third width **W3** (Fig. 3A) and an upper notched slit-shaped opening that is disposed adjacent the flat tubular upper portion and has a tapered portion with a fourth width **W4** (Fig. 3A) that is less than the third width.

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As to claims 11, 13, 14 and 18, Beadle discloses that the buckle guard or cover secures around a buckle (64) which comprises a buckle housing and a tongue member (not shown) inserted within the housing where the flat tubular lower and upper portions defining respective slit-shaped openings (where the belt webbing of the buckle and the tongue are inserted) as seen in Figs. 3 and 3A has widths which at the lower end is large enough for the buckle to pass there-through but the upper end is tapered defining a smaller width with which the buckle is not permitted to pass. Beadle discloses that the guard or cover is constructed of bendable plastic material.

Claims 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,105,219 to Beadle. Beadle (Fig. 2) discloses a buckle guard or cover comprising an outside belt-like member (16) having an outside top end (52), bottom end (88), connected portion at an outside edge of a central belt-like member (12) and fastening ends (74, 84), the outside top end disposed away from the outside bottom end, and the outside connected portion and fastening ends extending between the outside top and bottom ends and disposed away from one another; and an inside belt-like member (14) having an inside top end (50), bottom end (70), connected portion at an inside edge of the central belt-like member and fastening ends (68, 78), the inside top end disposed away from the inside bottom end, and the inside connected portion and fastening ends extending between the inside top and bottom ends and disposed away from one another, the inside connected portion connected with the outside connected portion via the central belt-like member forming the integral guard or cover and the inside fastening ends adapted to removably fasten with the outside fastening ends to form a partially closed volume, wherein a distance between the inside connected and fastening ends adjacent the inside top end is

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less than a distance between the inside connected and fastening ends adjacent the inside bottom end at a tapered region adjacent the inside top end.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beadle in view of USPN 4,699,401 to Saenz. Beadle fails to disclose a pocket disposed on an outside surface of the lower portion for holding a cellular phone therein. Saenz teaches a seat belt cover including a plurality of pockets disposed on an outer of the cover. Saenz further explains that the pockets can be used for holding various objects or items such as keys, pens or coins for the purpose of storing the object(s)/item(s) in a convenient location to be readily available for reuse. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the buckle guard or cover of Beadle to incorporate the seat belt cover of Saenz to provide a buckle guard comprising pocket(s) for storing a cellular phone in a convenient location to be readily available for use.

Claims 19, 20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beadle in view of USPN 4,057,181 to Finnigan. Beadle discloses that the mechanical fastener used to form the "partially closed volume" of Beadle's buckle guard or cover is a snap fastener including a plurality of snaps that engage eyelets and snapped together, however, Beadle does

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not include interlocking teeth attached to the side edges of the belt-like members adapted to releasably fasten the seat belt cover as claimed. Finnigan (Figs. 1 and 2) shows a shoulder belt cover (26) secured onto a seat belt webbing by a zipper connection (27) having a set of interlocking teeth disposed at edges of the cover providing a quick releasable fastener enabling a user to easily re-position the cover to any desired location along the seat belt webbing.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the buckle guard of Beadle to include the mechanical fastener of Finnigan to provide a trouble-free buckle guard or cover device providing a quick release fastener enabling a user to easily re-position the device to any desired location along the seat belt webbing.

Response to Applicant's Arguments

Applicant's arguments filed in Amendment B on September 8, 2003 have been fully considered but they are not persuasive. In particular, applicant remarks affirming that none of the prior art made of record discloses or suggest the limitations set forth in new claims 10-24. Here, the Examiner disagrees with applicant and cites #6,105,219 to Beadle in combination with #4,699,401 to Saenz which together, broadly interpreted, meets the limitations of applicant's claims. Accordingly, claims 10-14, 17, 18 and 21-23 are rejected as being unpatentable over Beadle. Claims 15 and 16 are rejected as being unpatentable over Beadle in view of Saenz and claims 19, 20 and 24 are rejected as being unpatentable over Beadle in view of Finnigan.

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Conclusion

Additional references are cited on the PTO 892 form but were not used to determine patentability of this application instead the references give information about related seat belt covers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (703) 308-3179. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1018.

André L. Jackson
Patent Examiner
AU 3677

ALJ



ROBERT J. SANDY
PRIMARY EXAMINER

FIG.3A

